

ORDINANCE NO. 3479

ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES OF THE
CITY OF ASHEVILLE ESTABLISHING LANDSCAPE AND BUFFERING
REQUIREMENTS

WHEREAS, the City of Asheville has the authority pursuant to Part 3 of Article 19 of Chapter 160A of the North Carolina General Statutes, to adopt zoning regulations, to establish zoning districts and to classify property within its jurisdiction according to zoning district, and may amend said regulations and district classifications from time to time in the interest of the public health, safety, and welfare; and

WHEREAS, the City of Asheville sets forth a variety of development requirements for new projects, including landscaping and buffering requirements in Article 11, Chapter 7;

WHEREAS, it has been determined that changes to the landscape and buffering standards furthers city adopted goals and objectives; and

WHEREAS, this proposed ordinance is determined to be reasonable and in the public interest as follows;

- a. Results in easier to read, comprehend, and apply standards; thereby reducing review and permitting times.
- b. Promotes the aesthetics and health of the urban landscape.
- c. Affords more flexibility in site design, allows for alternative compliance.
- d. Provides an appeal process for alternative design.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

Section 1. Chapter 7 of the Asheville City Code be amended as follows:

- (a) Sec. 7-11-2 is replaced with a new Section 7-11-2 to read:

“Sec. 7-11-2. Landscape and buffering standards.

(a) *Purpose.* The City of Asheville has an abundant and diverse tree and vegetative cover that contributes to the aesthetic value of the city and provides numerous ecological and economic benefits. Asheville’s location on the habitable edge of the Appalachian Mountains (one of the oldest ranges in the world); its truly fascinating cultural heritage; the accidents of history that endowed the city with more of than its share of memorable architecture; its site on the French Broad River (one of the country’s oldest rivers--and the only one in the Southeast that flows north); and its location in the center of a geographical area that includes four neighboring states, make Asheville truly different

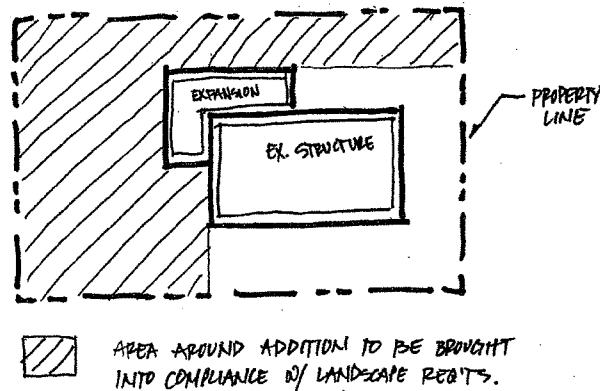
from all other American cities. The landscape and buffering standards set forth below require landscaping between dissimilar zoning, along public rights-of-way, in and around parking lots and outdoor storage areas, and on properties supporting new development or extensive re-development, in order to:

- (1) Encourage the preservation and health of existing trees, tree canopies, and other existing vegetation, and to replenish removed vegetation;
- (2) Improve and protect the visual quality of the City of Asheville, city forests, and forested view sheds, and minimize potential negative impacts of development such as noise, dust, glare of lights, parking lots, traffic, heat, overcrowding, and odor;
- (3) Provide environmental benefits, such as climate modification, decreased energy consumption, reduced stormwater runoff, decreased erosion, improved water and air quality, and protection of wildlife habitat;
- (4) Provide a transition between dissimilar zoning districts to protect abutting properties from potential negative impacts of neighboring development, particularly between residential-commercial interfaces, and to preserve the character and value of a property and provide a sense of privacy;
- (5) Improve standards for quantity, location, size, spacing, protection, and maintenance of plants and other screening materials to assure a high level of quality in the appearance of Asheville while allowing flexibility to promote well designed and creative landscape plantings.
- (6) Enforce the maintenance of landscaping installed to meet the requirements of these high standards to ensure that the landscaping continues to thrive and enhance the visual quality of the City of Asheville.

(b) *Applicability.* Landscape standards are required for developments within the City of Asheville's zoning jurisdiction, including the extraterritorial jurisdiction. Applicants are advised to meet with planning and development department staff prior to submitting a site plan to discuss applicable landscape requirements, other ordinance requirements, and coordination of plantings with utility plans. A landscape plan drawn to scale must be submitted with the site plan and prepared in accordance with the standards established by the planning and development department. Separate landscape requirements are considered cumulative unless noted otherwise.

- (1) The following developments must bring the entire site into full compliance with the requirements of Article XI of this chapter:
 - a. Any new public or private development with the exception of single or two-family housing developments;

- b. Major subdivisions of eight lots or greater;
- c. Changes of use to a higher impact (See Article XVII – Impact Table) ;
- d. Renovations with a total cost exceeding 50 percent of the appraised value of the building. The value of any expansions, enlargements, or reconstruction of such structures over a three year period shall be cumulated in calculating the 50 percent threshold;
- e. Expansions exceeding 50 percent of the pre-expansion floor area or paved surface;
- f. Existing unpaved parking lots which are paved over or existing paved lots which are demolished and repaved;
- g. Expansions or additions that are less than 50 percent of the pre-expansion floor area and/or pavement surface must meet the landscaping requirements only in the area around the addition which is parallel to any edge of the expansion area and extending to the property line or street pavement edge.



- (2) *Central Business District exemption.* In order to preserve and promote existing development patterns within the Central Business District, the property line buffer and building impact requirements of this subsection shall not apply to properties zoned Central Business District (CBD). However, all other street tree, street buffer, parking lot, and screening requirements shall apply.
- (3) *Urban Zoning District exemption.* In order to promote a high density, urban form of development within these districts, the tree save requirements of this subsection shall not apply to properties zoned Urban Village (UV), Neighborhood Corridor (NCD), Urban Residential (URD), and Urban Place (UP).

(c) *Preservation and Protection of Existing Vegetation.* Preserving existing vegetation protects the visual quality of the City of Asheville's urban landscape and should be encouraged.

- (1) *Credits and other incentives to preserve vegetation.* Projects intending to preserve existing vegetation in order to receive credit for required landscaping must graphically show the location of each tree on a the landscape plan and must note the dbh (diameter at breast height) and species of each tree. Any development that proposes to preserve existing vegetation will receive credit for that vegetation at the rate of:

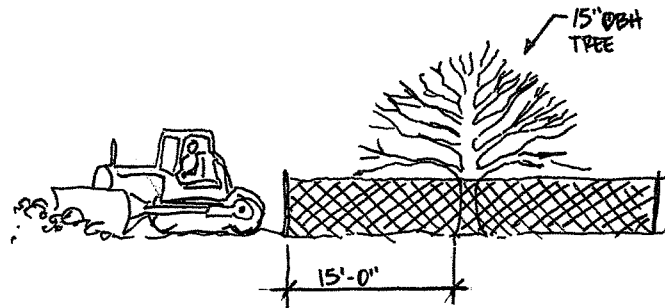
<i>Diameter at Breast Height</i>	<i># of Tree Credits</i>
2" - 6"	1
7" - 12"	2
13" - 18"	3
19" - 24"	4
25" +	5
Shrubs will be credited at a rate of 1:1	

In order to receive credit, preserved vegetation must be in good health and condition and must meet the spacing requirements of the standards it is intended to satisfy. Protective barriers must also be shown on the landscape and grading plans in accordance with the requirements of this section. If a preserved tree dies within 24 months of completion of the project, it must be replaced with the total number of trees which were credited to the existing tree. No credit will be given to invasive-exotic species.

- (2) *Protection of existing trees during construction.* No grading or other land-disturbing activity can occur on a site with existing trees which are designated to be preserved in order to meet the landscaping requirements until protective barriers are installed by the developer and inspected by the planning and development director. The dbh of the preserved trees and the location of protective barriers must be shown on the landscape and grading plans with the dimension between the tree trunk and barrier indicated.
- a. *Placement of protective barriers.* Barricades shall be placed around the critical root zone of preserved trees that are within 50 feet of any grading or construction activity. The critical root zone is a circle extending around the tree with a one-foot radius for every one inch of tree diameter. All protective barriers must include clear and visible signage that describes the delineated area as a "Tree Protection Area", or equivalent. All protective barriers and signs must be maintained throughout the building construction process.

b. *Protective barriers shall consist of either:*

- A fence which is at least three feet high and constructed in a post and rail configuration, using two by four posts and one by four rails; or
- A fence with two by four posts placed no farther than ten feet apart covered with a four-foot orange polyethylene laminar safety fencing.



c. *Prohibited activities.* All contractors must be made aware of the areas designated for protection. No disturbance can occur within the tree protection area including:

- Grading
- Filling
- Parking
- Storage of debris or materials, including topsoil
- Sedimentation and erosion control measures
- Disposal of hazardous wastes or concrete washout
- Attaching of nails, ropes, cables, signs, or fencing to any preserved tree.

d. *Permissible encroachments.* Where physical site constraints exist, utilities may encroach into the tree protection area provided they are tunneled at least two feet directly below the tree roots to minimize root damage. A construction detail shall be required.

Other encroachments various in nature may be permitted provided that the contractor follows-through on the written recommendation of a certified arborist or consulting arborist to minimize any potential impact and certify that the activity will not damage the tree under normal circumstances.

e. *Silt Fencing.* If silt fencing is required to control sedimentation, the fencing must be placed along the uphill edge of a tree protection zone in order to prevent sediment from accumulating in the critical

root zone area (refer to the City of Asheville's Standards and Specifications Manual for details).

- (d) *Standards.* Landscape requirements are broken down in the following categories:
- c. Property Line Buffer – landscaping along property lines separating different zoning districts.
 - d. Street Buffer – landscaping along street rights-of-way between parking areas and pedestrian zones.
 - e. Street Trees – Shade trees planted along street frontages to improve the pedestrian environment and enhance the urban streetscape.
 - f. Parking Lot Landscaping – landscaping in and around vehicular use areas.
 - g. Building Impact Landscaping – landscaping used to enhance the site.
 - h. Screening – landscaping around utility use, outdoor storage, and loading areas.
 - i. Tree Save Areas – tree preservation and/or replanting areas for residential developments.

(1) *Property Line Buffer.* Some land uses may create an adverse impact when developed adjacent to other less intensive land uses commonly found in certain zoning districts. Bufferyards shall be required for proposed developments adjacent to parcels of dissimilar zoning designations to provide a transition between districts of varying intensities. The bufferyard width and number of plantings required will vary depending on the degree of difference between the zoning designations and shall be the responsibility of the property owner developing or changing the land use.

- d. *Bufferyard types.* The amount of plant material required in a bufferyard area is measured per 100 linear feet and is based on the following table.

<i>Bufferyard Type</i>	Evergreen Trees	Deciduous Trees (Large)	Deciduous Trees (Small)	Shrubs (Large)	Shrubs (Small)
A – 20' wide	4	3	3	10*	10*
B – 30' wide	6	5	5	15*	15*

* 50% of all shrubs must be evergreen.

- e. *Buffer Determination.* The type of buffer required is based on the following table. Table is to be read in one direction only starting from the *Proposed Development Site Zoning* column.

<i>Proposed Development Site Zoning</i>	<i>Adjacent Zoning & Required Buffer</i>	
	RS	RM
RS	N/A	N/A
RM	A	N/A

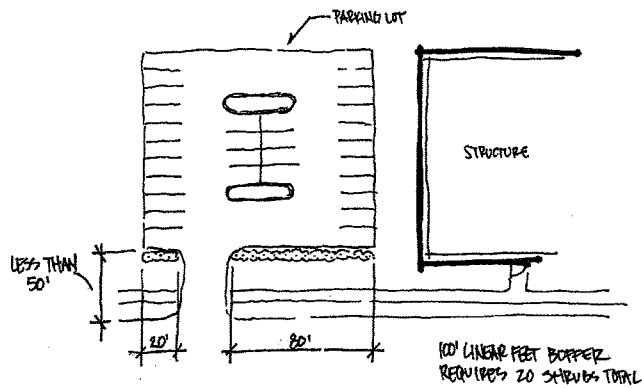
O, OII, NB	A	A
OB, CB-I, CB-II, RES, INST, HB, RB, RIVER, CI, IND, LI	B	A
UV, NCD, UR, UP	B	A

- c. *Buffer Location.* Buffers shall extend along the entire property line which is adjacent to the properties of dissimilar zoning designation. Buffers are to be located on the property of the person developing the new or changing land use, between the property line and any vehicular use areas, buildings, storage, service areas, or other area of activity.
- d. *Species composition.* Plantings in buffer areas shall be an appropriate mix of native species or other species suitable to naturalizing in woodland settings. Buffers in the River District shall be composed of species appropriate to a river environment. Consult the *City of Asheville Recommended Species List* for a list of approved species. Species not identified in the list may be approved by the Planning and Development Director.
- e. *Placement of buffer plantings.* The exact placement of the required plants shall be the decision of the developer or designer, but shall be approved by the Planning and Development Director. Plants should be placed in a manner to serve as an effective and attractive screen year-round when viewed from any area accessible to the public or from adjacent properties. Trees or shrubs should be planted at least five feet away from the property line to ensure maintenance access and to avoid encroaching upon neighboring property.
- f. *Setbacks.* Wherein a setback and bufferyard are required along the same property line that with the greatest dimensional width shall be applicable. If the setback is greater than the bufferyard, the total number of required plant material shall be distributed throughout the wider setback.
- g. *Corner Lots and Through Lots.* No buffer will be required along the front property line of any lot; however, a lot with more than one street face will require a buffer along the secondary street face when it is adjacent to a dissimilar zoning district. Buffer requirements are waived in lieu of street trees and street buffers, as applicable, provided the building facade is that street frontage is pedestrian oriented with functioning pedestrian entrances that open onto public sidewalks.
- h. *Encroachments.* The following site features may be permitted to penetrate or encroach into a required buffer area provided that the total number of required plantings is still met.
 - Approved driveway openings
 - Pedestrian or bicycle paths

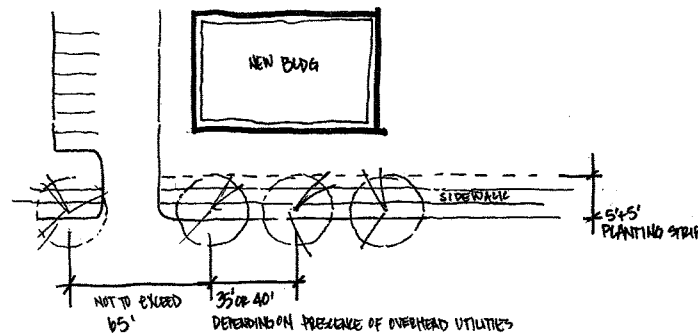
- Designated greenways
 - Utilities
 - Walls/fences
- i. Prohibitions in a buffer. The following are specifically prohibited from encroaching into required buffer areas:
- Loading areas
 - Storage areas
 - Parking areas
 - Driveways and drive aisles, other than approved openings
 - Dumpsters
 - Stormwater retention/detention structures
- j. *Buffer along the Blue Ridge Parkway.* In order to preserve views and mitigate the impacts of adjacent development from the Blue Ridge Parkway or other scenic corridors officially designated by City Council or the North Carolina Department of Transportation, new developments adjacent to these corridors shall provide a Type 'B' buffer as required by this subsection.
- k. *Grading activity in the bufferyard.* When possible, grading should not occur within a required bufferyard. If grading within the required bufferyard proves necessary then the developer is required to plant trees and shrubs which are 50% larger than otherwise required in order to quickly re-establish a visual buffer. Grading in the required bufferyard shall not exceed a 3:1 slope.
- l. *Overlapping requirements.* 50% of buffer plants that are within 15 feet of a vehicular use area may also be counted towards the parking lot landscaping.

(2) *Street Buffers.* Street buffers are designed to provide for a separation of activities and a more comfortable pedestrian environment. The Street Buffer is required in addition to the street trees planted in a ten-foot planting strip as required in subsection 7-11-2(d)(3)(c).

- a. *Street Buffer determination.* Vehicular use areas greater than 4,000 square feet that are located within 50 feet of the edge of a street must be buffered from the street.
- b. *Calculating the requirement.* One evergreen or deciduous shrub planted for every five linear feet of buffer required. Species selected must achieve a minimum of three feet in height at maturity.

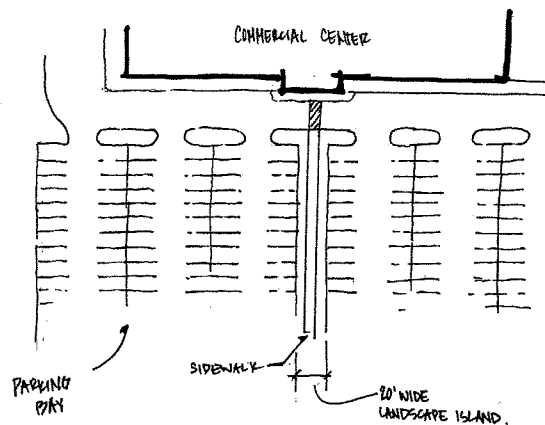


- (3) *Street trees.* Street trees are required for all new developments except for single or two family homes. This requirement is designed to create or enhance an attractive streetscape pattern while contributing to Asheville's urban forest and a more comfortable pedestrian environment.
- a. *Street Tree determination.* Street trees are required along all street frontages.
 - b. *Calculating the requirement.* Street tree requirements are as follows:
 - Overhead Utilities Present – one small maturing tree (less than 35 feet in height at maturity) for every 30 linear feet of property abutting a street.
 - All Other Conditions – one large maturing tree (greater than 35 feet in height at maturity) for every 40 linear feet of property abutting a street.
 - c. *Street tree spacing.* Trees may be evenly spaced or staggered to accommodate other site features. In no case shall a required street tree be closer than 15 feet or farther than 65 feet from another required tree. No street tree shall be farther than 20 feet from the edge of pavement or, in cases of planned road widening, 20 feet from the proposed edge of pavement. Existing trees credited towards street tree requirements shall meet spacing requirements.

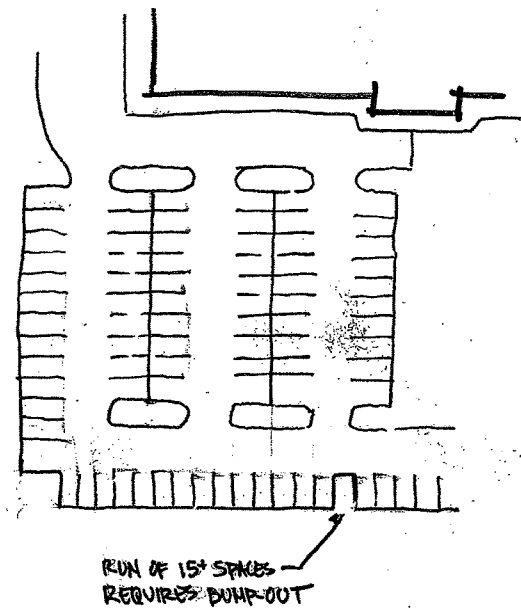


- d. *Planting strip.* Trees shall be placed in a planting strip the width of which may vary but shall maintain a minimum of not less than seven feet and an average width of ten feet. The planting area must be covered with living material, including groundcover and/or shrubs, except for mulched areas directly around the trees so that no soil is exposed. No stone mulch is permitted in the planting strip. Sidewalks may interrupt the planting strip provided the width on either side of the sidewalk totals ten feet. (See the *City of Asheville Standards and Specifications Manual* for detail(s))
 - e. *Street trees in urban zoning districts.* Street trees required within the Central Business District, Urban Village, NCD, UR, and UP zoning districts may utilize other urban forms such as tree pits with grates or trenches. New trees where sidewalk construction is required shall be required to install a subsurface structure at a rate of 200 square feet per tree. (See the *City of Asheville Standards and Specifications Manual* for details)
 - f. *Trees in public rights-of-way.* Street trees may be located within the City's rights-of-way but must be of a species approved by the City Arborist. Trees located in other public rights-of-way must provide an encroachment agreement from the regulating agency.
- (4) *Parking lot landscaping.* Trees and shrubs are required in and around parking lots in order to provide attractive views from roads and adjacent properties, provide shade to reduce the heat generated by impervious surfaces, reduce glare from parking lots, and to help filter exhaust from vehicles.
 - a. *Parking lot determination.* Parking lots with six (6) or more spaces shall require parking lot landscaping.
 - b. *Calculating the requirement.* One deciduous tree and four shrubs for required for every 1,500 square feet of vehicular use area (VUA). At least 75 percent of the required deciduous parking lot trees must be large-maturing trees. Trees and shrubs must be planted within 15 feet of the vehicular use area to count as parking lot landscaping.

- c. *Interior rows of parking.* When more than four trees are required in a parking lot with interior rows, 50 percent of the trees and shrubs must be planted in islands or medians located within the parking lot.
- d. *Multiple parking bays.* When more than four bays of parking are proposed, an interior island with an average width of 20 feet and a length equivalent to the length of the average parking bay is required. This island must be planted and include a pedestrian walkway no less than five feet wide and placed in a location that enhances pedestrian circulation, preferably leading directly to a building entrance or sidewalk.



- e. *Perimeter parking spaces.* All continuous runs of 15 or more parking spaces shall be interrupted by a tree island.



- f. *Minimum Island Size.* The minimum island size shall be 200 square feet of pervious planting surface per tree. Islands must maintain an average width of 10 feet with a minimum width no less than 5 feet.
- g. *Protection of trees.* Curbing, bollards, or parking barriers shall protect trees and shrubs within five feet of the edge of the pavement. Trees and shrubs in islands should be set back at least three feet from the curb so as not to interfere with car doors opening.
- h. *Canopy coverage.* Each parking space shall be located within 60 feet of a tree as measured from the trunk of the tree to the closest point of the parking space.
- i. *Parking decks.* Exposed parking decks are required to plant a minimum of one tree and two shrubs for every 30 linear feet of the parking structure's perimeter. Trees shall be planted within 20 feet of the structure. This requirement shall be waived for any side of the structure where the Property Line Buffer standards of subsection 7-11-2(d)(1) require a greater number of plantings.
- j. *Additional landscaping required for parking lots exceeding the maximum number of parking spaces.* When the number of parking spaces exceeds the maximum city parking standards as set forth in section 7-11-1, one tree and two shrubs per 1,000 square feet of the additional vehicular use area shall be required in addition to the minimum requirements of this subsection.
- k. *Landscaping of parking areas and other uses by right, subject to special requirements and Conditional Uses.* All parking areas required for

specified uses outlined in Article XVI shall be screened from adjacent properties with a mix of evergreen and deciduous trees and shrubs to result in a vegetative screen that is 75% opaque year round.

(5) *Building impact landscaping.* Building impact landscaping shall be required for new or existing buildings in order to soften views from roads and adjacent properties, provide shade to reduce the heat generated by impervious surfaces, reduce glare, and to help enhance the urban landscape.

- a. *Building impact determination.* All new developments with an existing or proposed building with a footprint greater than 3,000 square feet. Developments with more than one building shall combine the total footprint areas.
- b. *Calculating the requirement.* One tree and two shrubs for every 1,000 square feet of building footprint. Trees and shrubs may be planted anywhere on site.

(6) *Screening of dumpsters, loading docks, outdoor storage areas, and utility structures.* All dumpsters, loading docks, or utility structures visible from a public street or adjacent property line shall be screened unless already screened by an intervening building or bufferyard. All enclosed outdoor storage areas greater than 25 square feet shall also be screened from adjacent properties and streets. Screen types include:

- A continuous hedge of evergreen trees and/or densely twigged deciduous trees planted in a seven foot strip spaced no more than eight feet apart
- A fence or wall with a minimum height of six feet with the finished side of the fence facing the abutting property or street. Fences longer than 25 linear feet shall be landscaped with trees and/or shrubs planted in a minimum five foot planting area, except around access areas, spaced no farther than eight feet apart in order to screen at least 50 percent of the fence or wall.

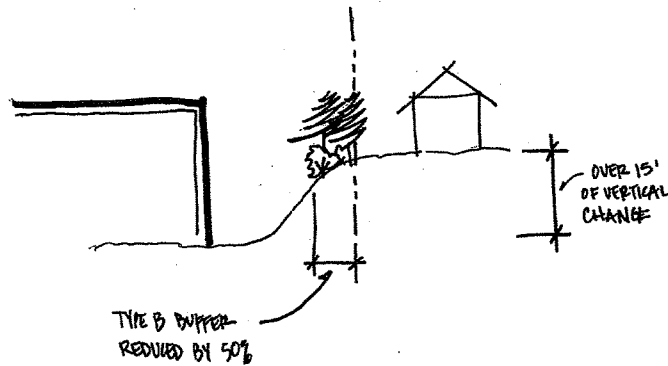
(7) *Tree Save Areas.* Residential projects shall preserve a portion of a site area dedicated to the preservation and/or establishment of natural woodland areas. These areas shall be delineated on the required site plan or final plat.

- a. *Tree save area determination.* All new residential multi-family developments of eight or more units and major subdivisions of eight or more lots are required to have dedicated tree save areas.
- b. *Calculating the requirement.* 30 percent of the total site area must be delineated on an approved site plan or an approved preliminary and final plat as tree save area. Each acre of designated tree save area must be

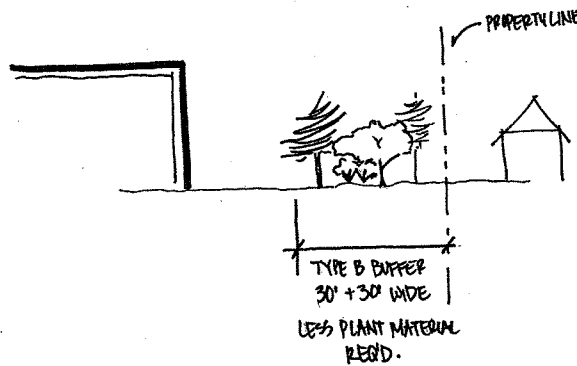
planted at the following rate; areas less than one acre will be required a pro-rated amount plants:

<i>Minimum Number of Trees/Shrubs</i>	<i>Minimum Size</i>
14 Large Maturing Trees	2 inch caliper
7 Large Maturing Trees	3 inch caliper
5 Understory Trees	1.5 inch caliper
50 Shrubs	18" high or 3 gal. container

- c. *Species composition.* Trees and shrubs native to Western North Carolina must be used. No single tree species shall constitute more than 20 percent of the total requirement. No single species shall constitute more than 30 percent of the total shrub requirement; native rhododendron or mountain laurel may constitute 50 percent of the total shrub requirement.
 - d. *Minimum tree save area size.* Tree save areas may be divided into more than one pocket provided no single area is less than 5,000 square feet.
 - e. *Qualifying areas.* Open, common space areas and required property line buffers may be included in the required tree save areas. For major subdivisions, a minimum of 50 percent of the required open space area shall also be tree save area.
- (e) *Alternative Compliance.* The landscape requirements are intended to set minimum standards for quality development and environmental protection; site conditions or other reasons may justify the need to request an alternate method of compliance. The applicant must submit a plan of the area for which alternative compliance is requested to the planning and development director. The site plan shall show existing site features and any newly proposed features, if applicable.
- (1) *Alternative Buffers.* Buffer requirements may be adjusted through an Alternative Compliance determination if one or more of the following objective standards are met:
 - a. *Vertical separation.* When a topographical change greater than 15 feet exists, a buffer width may be reduced by 50% provided the balance of the buffer material is placed at the top of the bank. Plantings may be placed on the high side of the bank provided the bank does not exceed a 3:1 slope. A section drawing is required.



- b. *Horizontal separation.* When an undisturbed area is greater than twice the required buffer width, the number of required plant material in a buffer may be reduced by 50%.



- c. *Geologic features, drainage channels or streams.* The placement of plant material may be adjusted to accommodate the natural features of a site provided the total amount of required plant material is provided.
- d. *Plant Communities.* The composition of a plant material in a buffer may be adjusted to accommodate a naturally occurring plant community or a documented historical pattern provided an equivalent number of plants are provided.
- e. *Site Constraints.* For all infill and/or adaptive re-use sites where existing utilities, structures, and/or other infrastructure creates a physical constraint to providing the required buffers; buffer widths and plantings may be reduced by 50% with the installation of a 6' high, opaque privacy fence or wall (finished face out). Plantings must be located within a seven-foot side planting area located on the exterior of the fence facing the adjacent property. This alternative may not be used when existing parking infrastructure exceeds minimum parking requirements.

(2) *Alternative buffering from the street.* Buffering from the street requirements may be adjusted through an Alternative Compliance determination if the

following objective standards are met:

- a. A natural grade change or man-made berm creates a minimum three foot vertical separation and is completely covered with trees, shrubs, perennials, and/or groundcover.

(3) *Alternative parking lot landscaping.* Parking lot landscaping requirements may be adjusted through an Alternative Compliance determination if one or more of the following objective standards are met:

- i. *Island Size.* The minimum island size of 200 square feet of planting area per tree may be reduced to:
 - 100 square feet per tree provided that a minimum width of 4 feet is maintained and, when combined with a subsurface structure, provides a total aerated area greater than 300 square feet per tree. Construction detail must be provided.
 - 150 square feet per tree provided that a minimum width of 5 feet is maintained and, when combined with a pervious block paver, provides a total pervious surface area greater than 300 square feet. Construction detail must be provided.
 - 150 square feet per tree provided that the islands are existing and the trees are found to be in good health and are identified to be preserved on the landscape plan.
- ii. *Interior Plantings (total number of plantings).* The requirement for plantings in interior islands may be reduced by 30% if all interior islands and/or perimeter parking lot landscaping are designed to allow for water collection and retention. These islands shall be planted with water tolerant species and shall not be fenced. Construction detail(s) must be provided.
- iii. *Tree spacing.* The requirement for all parking spaces to be located within 60' of a tree may be waived for businesses requiring the outdoor display or storage, provided that the total interior island requirements are met with larger consolidated islands where a minimum of 50% (total square footage) of the islands are designed to allow for water collection and retention. These islands shall be planted with water tolerant species and shall not be fenced. In no case shall this standard be applied to typical parking lots where the vehicles are not owned by a single entity. Construction detail(s) must be provided.

(4) *Alternative street tree requirements.* Street tree requirements may be adjusted through Alternative Compliance if one or more of the following objective standards are met:

a. *Planting strip width.* The required 10 foot wide planting strip for street trees may be reduced if one or more of the following objective standards apply:

- An existing sidewalk, building(s) and/or other infrastructure prevents its installation. In no case shall the planting strip be less than 5 feet wide or planting area less than 200 square feet per large maturing tree, or 150 square feet per small maturing tree.
- The predominant existing street tree pattern within 500 feet (both directions on both sides of the street) displays a different pattern. In no case shall the planting strip be less than 5 feet wide.
- A subsurface structure is used to allow for an aerated area of 200 square feet per tree. Construction detail must be provided.
- An adopted streetscape plan, corridor plan, and/or neighborhood plan calls for a different standard and the development complies with this standard.

(5) *Other alternative compliance requests.* All other alternative compliance requests not identified in this subsection may be reviewed by the Asheville Tree Commission who will act as an advisory board to the Planning Director. The applicant for such a request shall submit a list of all adjacent property owners to be notified by mail at least 10 days in advance of the meeting of the Tree Commission where the request is to be considered. All notices shall be sent with delivery confirmation and shall state:

- A general description of the request
- The time and place of the meeting
- Contact information
- The requirements of this section (i-vii) with a description of how the request meets each of these standards.

The Commission, upon consideration of such a request may recommend approval, approval with conditions, or denial of the request. After receiving the recommendations of the Tree Commission, the Planning Director shall make the final decision on such requests, and shall provide a copy of that decision to any adjacent property owners who have requested one. In the event that the Planning Director rejects the Tree Commission's recommendation, all adjacent property owners will be notified in writing. Under no circumstances may the Tree Commission recommend, or the Planning Director approve, an alternative that reduces the standard requirements by more than 50 percent. Applicants or other aggrieved parties may appeal a decision to the Asheville Board of Adjustment in the manner provided for appeals of administrative decisions in Article VI of this chapter.

a. *Alternative compliance standards.* No request for alternative compliance under this section may be approved unless the information provided in

support of the request shows the following:

- i. The site in question is affected by physical conditions or constraints, not attributable to proposed site design or building design, that make compliance with the standard requirements practically impossible.
- ii. The physical conditions or constraints are not a result of the applicant's own actions.
- iii. The proposed alternative will not present a safety hazard.
- iv. That proposed alternative will, upon maturity, provide landscaping that is equal to or better than the standards requirements.
- v. The proposed alternative is designed to address plant health and vigor.
- vi. The proposed alternative is reasonably compatible with the natural and topographic features of the site.
- vii. The proposed alternative supports the purpose statement noted in 7-11-2(a)

(f) *Compliance & Maintenance.* Vegetation shall be planted and maintained to ensure the best chance of survival and to reduce the potential expense of replacing damaged plant materials

- (1) *Certificate of compliance.* Landscaping must be installed and inspected by the City of Asheville prior to receiving a certificate of compliance. If the season or weather conditions prohibit planting the materials, the developer may provide a bond, an irrevocable letter of credit, or other financial surety in an amount equal to 1 ½ times the estimated cost of installing the required landscaping to guarantee the completion of the required planting. Upon approval of the financial surety, the certificate of compliance shall be issued. The financial surety shall be for a period not to exceed 12 months; the Planning and Development director may grant a single extension of this time period for up to 12 months upon submittal by the applicant of sufficient justification for the extension. The surety shall be canceled and/or returned upon completion of the required landscaping.
- (2) *Maintenance.* The owner or lessee of the property where landscaping is required shall be responsible for the maintenance and protection of all required and preserved plant and screening material. Landscaped areas shall be maintained in good condition and kept free of debris.
- (3) *Plant specifications.*

- a. *Recommended plant species.* Plants may be chosen from the *Recommended Plant Species list*. (See Appendix 7-C.) Specific riparian species, as identified in the *Recommended Species List*, Trees and Shrubs for Damp Sites and River Districts, shall be required for developments located within the 100 year flood plain. The list encourages the use of plant materials which are indigenous to this region and are readily available from local nurseries. Plant materials which are not on the list may also be used following approval from the planning and development director.
- b. *Minimum plant size requirements.* All required vegetation shall meet the following minimum size requirements at planting. Additionally, all plants must meet the requirements of the most recent edition of the American Standards for Nursery Stock, ANSI 260.1. Plants must be healthy, well-branched, and free of disease and insect infestation.
 - i. *Large-maturing deciduous tree:* Greater than 35 feet at maturity. Minimum size at planting shall be two inches caliper and 12 to 14-foot height.
 - ii. *Small-maturing deciduous tree:* Smaller than 35 feet at maturity. The minimum tree size shall be at least one and one-half inch caliper or eight to ten feet high at time of planting.
 - iii. *Evergreen tree:* Minimum height of six feet at time of planting.
 - iv. *Large Shrub:* Minimum 5 gallon container or ten-inch root ball with a height of 24 inches at time of planting.
 - v. *Small Shrub:* Minimum three gallon container or eight-inch root ball with a height of 18 inches at time of planting.

(4) *Tree pruning standards.* Trees located within the City's public right-of-way cannot be pruned or removed without a permit from the Asheville Public Works Department as required by Chapter 20 of the Code of Ordinances of the City of Asheville. All other required trees shall be pruned in accordance with the American National Standard for Tree Care operations A300 published by the American National Standards Institute. Tree owners and their agents are encouraged to hire businesses that employ certified arborists who can supervise the pruning work on site and ensure that proper pruning is being performed (See the City of Asheville *Standards and Specifications Manual for details*). In addition, the following standards shall apply to required trees:

- a. Co-dominant stems less than four inches in diameter at the fork shall be

pruned off and one main stem shall remain.

- b. Pruning shall be done such that a tree's natural form is maintained by the greatest extent possible.
- c. Tree topping or heading is not permitted.
- d. Reasons for which tree pruning is not permitted include, but are not limited to:
 - Sign installation, clearance, or visibility; excluding traffic, directional, warning, or information signs owned by any public or semi-public agency.
 - Visibility of a structure and/or outdoor display area.
 - Clearance for equipment traffic or storage, the erection of temporary structures, or materials storage within the tree protection zone.

(4) *Failure to Maintain.* Failure to maintain or replace dead, damaged, or diseased material or failure to maintain or repair a fence or wall installed as a buffer shall constitute a violation of this chapter and shall be subject to the penalty provisions in section 7-18-2 if not corrected or replaced within 30 days of notification. If an act of God or other catastrophic event occurs which destroys a large quantity of vegetation, the owner or lessee shall have 120 days to replant. Replaced plant material must be in compliance with the minimum size, spacing, and quantity standards of this chapter.

(5) *Un-approved removal or non-compliant pruning.* Removing required landscaping or undertaking pruning actions that do not conform to the requirements of this section shall constitute a violation of this chapter and shall be subject to the penalties described in Chapter 10, Appendix B. Additionally, all affected areas must be replanted to current standards.

(g) *Clearing of Land Time Limit.* In districts where speculative grading is prohibited and land is cleared through issuance of a grading permit; the owner shall be required to replant the cleared property to its original state based on tree counts and other information originally submitted to the City of Asheville if construction does not begin within six months from the date that the grading activity ceases. A single six month extension of the above limit may be issued at the discretion of the Planning & Development Director.”

(b) The following definitions are added to Section 7-2-5, to be inserted alphabetically:

“*Adaptive reuse* refers to the process of adapting old structures for new purposes while retaining some of the architectural details that make the building unique.”

“Infill development refers to new development that occurs within established urban areas where the site or area is either vacant or has previously been used for another urban purpose.”

“Tree save area means required tree preservation and/or replanting areas.”

“Vehicular Use Area (VUA) means all driving surfaces including: parking, drive aisles, driveways, loading areas, and maneuvering areas that are paved or gravel.

(c) Subsection 7-16-1(c)(2)e is revised to read as follows:

“e. Accessory structures with a footprint of more than 600 square feet shall be buffered from the adjacent residential development with a buffer as set forth in 7-11-2(d)(4)k of this chapter. Accessory structures located on a bona fide farm and located not less than 24 feet from a property line shall be exempt from this buffering requirement.

(d) The first sentence of subsection 7-16-1(c)(46)(h)1 is revised to read:

“1. Parking and outdoor activity areas shall be buffered from adjacent residential uses with an “A” buffer as described in Section 7-11-3 of the UDO.”

(e) Subsection 7-16-1(c)(72)o is revised to read:

“o. The rental units shall be buffered from the adjacent residential uses with a minimum of an “A” buffer as described in 7-11-2 of this chapter if existing vegetation is used for the buffer. If existing vegetation is absent or removed, a “B” buffer as described in 7-11-2 of this chapter shall be required to buffer the rental units from adjacent residential uses.”

(f) The first sentence in subsection 7-16-2(c)(3)p is revised to read:

“p. Telecommunication towers shall be buffered from adjacent properties with a buffer which, at a minimum, meets the requirements of an “A” buffer as described in 7-11-2 of this chapter, regardless of adjacent zoning district classifications or uses.”

(g) The first sentences in subsections 7-16-2(c)(5)d, 7-16-2(c)(6)d, 7-16-2(c)(7)d, and 7-16-2(c)(16)c are revised to read:

“d. Parking shall be located in the rear and shall be screened with vegetation from adjacent single family uses as set forth in 7-11-2(d)(4)k. “

Section 2. If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase

thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

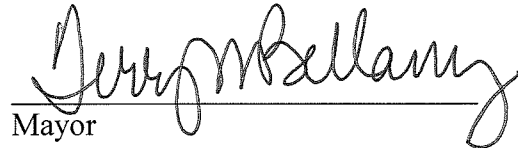
Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. This ordinance shall become effective upon adoption.

Read, approved, and adopted this 10th day of April, 2007.

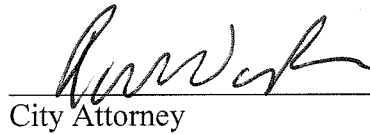


City Clerk



Mayor

Approved as to form:



City Attorney